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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. *2013-336*

12 **VISESH MOHAN**
3220 Merrill Drive, Unit 43
13 Torrance, CA 90503

A C C U S A T I O N

14 Registered Nurse License No. 771080

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs (Board).

22 2. On or about March 24, 2010, the Board issued Registered Nurse License No. 771080
23 to Visesh Mohan (Respondent). The Registered Nurse License was in full force and effect at all
24 times relevant to the charges brought herein and will expire on June 30, 2013, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board, under the authority of the following
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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STATUTORY PROVISIONS

4. Section 118, subdivision (b), provides that the suspension, expiration, surrender, cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 provides, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

6. Section 492 provides:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a

1 record pertaining to an arrest.

2 "This section shall not be construed to apply to any drug diversion program operated by any
3 agency established under Division 2 (commencing with Section 500) of this code, or any
4 initiative act referred to in that division."

5 7. Section 2750 provides, in pertinent part, that the Board may discipline any licensee,
6 including a licensee holding a temporary or an inactive license, for any reason provided in Article
7 3 (commencing with section 2750) of the Nursing Practice Act.

8 8. Section 2761 provides, in pertinent part:

9 "The board may take disciplinary action against a certified or licensed nurse or deny an
10 application for a certificate or license for any of the following:

11 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

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13 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
14 violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice
15 Act] or regulations adopted pursuant to it.

16 "(e) Making or giving any false statement or information in connection with the
17 application for issuance of a certificate or license.

18 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
19 functions, and duties of a registered nurse, in which event the record of the conviction shall be
20 conclusive evidence thereof. . . ."

21 9. Section 2762 provides, in pertinent part:

22 "In addition to other acts constituting unprofessional conduct within the meaning of this
23 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
24 chapter to do any of the following:

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26 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
27 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
28 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to

1 himself or herself, any other person, or the public or to the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license.

3 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
4 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
5 or the possession of, or falsification of a record pertaining to, the substances described in
6 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
7 thereof. . . ."

8 10. Section 2764 provides, in pertinent part, that the expiration of a license shall not
9 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
10 to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the
11 Board may renew an expired license at any time within eight (8) years after the expiration.

12 **REGULATORY PROVISION**

13 11. California Code of Regulations, title 16, section 1444, provides, in pertinent part:

14 "A conviction or act shall be considered to be substantially related to the qualifications,
15 functions or duties of a registered nurse if to a substantial degree it evidences the present or
16 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
17 safety, or welfare. . . ."

18 **COST RECOVERY**

19 12. Section 125.3 provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licensee found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Convictions of Substantially-Related Crimes)**

25 13. Respondent is subject to disciplinary action under sections 490 and 2761, subdivision
26 (f), in conjunction with California Code of Regulations, title 16, section 1444, in that on or about
27 June 24, 2010, Respondent was convicted of a crime substantially related to the qualifications,
28 functions or duties of a registered nurse which to a substantial degree evidences his present or

1 potential unfitness to practice in a manner consistent with the public health, safety, or welfare, as
2 follows:

3 a. On or about June 24, 2010, after pleading *nolo contendere*, Respondent was
4 convicted of one misdemeanor count of violating Vehicle Code section 23103 [reckless driving],
5 in the criminal proceeding entitled *The People of the State of California v. Visesh Mohan* (Super.
6 Ct. Los Angeles County, 2010, No. OMP07578). The court suspended imposition of sentence and
7 placed him on probation for a period of 36 months. Respondent was also ordered to pay a \$300
8 fine or serve 10 days in County Jail. The circumstances surrounding the conviction are that on or
9 about May 30, 2010, Los Angeles Police Officers during a routine traffic stop, stopped
10 Respondent for driving at a high rate of speed, over the speed limit. The officers contacted the
11 Respondent and observed the Respondent to have an odor of alcohol emitting from his breath,
12 and red, watery eyes. Respondent agreed to a series of field sobriety tests, which he completed
13 unsatisfactorily. Respondent subsequently consented to two breath tests with results of .08%
14 BAC and .10% BAC. Respondent was convicted of violating Vehicle Code section 23103
15 [reckless driving].

16 SECOND CAUSE FOR DISCIPLINE

17 (Alcohol and / or Drug Related Conviction)

18 14. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and
19 2762, subdivision (c), on the grounds of unprofessional conduct, in that on or about June 24,
20 2010, Respondent was convicted of a crime involving alcoholic beverages. Complainant refers
21 to, and by this reference incorporates, the allegations set forth above in paragraph 13,
22 subparagraph (a), inclusive, as though set forth fully.

23 THIRD CAUSE FOR DISCIPLINE

24 (Dangerous Use of Alcohol)

25 15. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and
26 2762, subdivision (b), on the grounds of unprofessional conduct, in that Respondent dangerously
27 used alcoholic beverages and / or drugs to an extent or in a manner dangerous or injurious to
28 himself or others as follows:

1 a. On or about May 30, 2010, Respondent did drive a vehicle while under the influence
2 of an alcoholic beverage, and was subsequently convicted of violating Vehicle Code section
3 23103 [reckless driving]. Complainant refers to, and by this reference incorporates, the
4 allegations set forth above in paragraph 13, subparagraph (a), inclusive, as though set forth fully.

5 **FOURTH CAUSE FOR DISCIPLINE**

6 **(Knowingly Made a False Statement of Fact)**

7 16. Respondent is subject to disciplinary action under section 2761, subdivision (e), in
8 that on or about April 8, 2011, Respondent knowingly made a false statement of fact on the
9 application for license renewal via the Online Licensing System, "Supplemental Information
10 Report, when he selected "No" to the question, "Since you last renewed your license...have you
11 been convicted of any crime in any state, the USA and its territories..." In fact, Respondent had
12 been convicted of a crime on June 24, 2010. Complainant refers to, and by this reference
13 incorporates, the allegations set forth above in paragraph 13 as though set forth fully.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct / Violate Act)**

16 17. Respondent is subject to disciplinary action under sections 2761, subdivision (a) and /
17 or (d), in that Respondent committed acts of unprofessional conduct and / or acts violating the
18 Nursing Practice Act. Complainant refers to, and by this reference incorporates, the allegations
19 set forth above in paragraphs 13 through 16, inclusive, as though set forth fully.

20 **DISCIPLINARY CONSIDERATIONS**

21 **(Prior Conviction)**

22 18. On or about June 12, 2008, in the criminal proceeding *The People of the State of*
23 *California v. Visesh Mohan* (Super. Ct. Los Angeles County, 2008, No. D282375, Respondent
24 was convicted by a plea of nolo contendere of a misdemeanor violation of Vehicle Code section
25 647(f)-public intoxication. The circumstances are that on or about May 05, 2008, Respondent
26 was found to be in a public place under the influence of intoxicating liquor, in a condition that he
27 was unable to exercise care for his own safety or the safety of others.

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1. Revoking or suspending Registered Nurse License No. 771080, issued to Visesh Mohan;

3. Taking such other and further action as deemed necessary and proper.

for Stacie Bern
LOUISE R. BAILEY, M
Executive Officer

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